984.

SUPREME COURT OF THE UNITED STATES.

No. 161.

THE UNITED STATES, APPELLANTS,

vs.

JOHN C. GORE.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in case No. 564—John C. Gore, claimant, versus The United States, defendant, for the place named "El Pescadero."

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this ninth day of February, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of John C. Gore for the place named "El Pescadero" was presented, and filed and docketed with No. 564, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *February 17th*, 1853.

In the same case, the deposition of Wm. E. P. Hartnell, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with document marked H. H, No. 1, annexed thereto, was filed, and is in the words and figures following, to wit:

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *October* 3, 1853.

This case was submitted on briefs and taken under advisement by the board.

SAN FRANCISCO, *February* 28, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim.

(Vide page 46 of this Transcript.)

SAN FRANCISCO, *Aug't* 15, 1854.

In the same case, on motion of the U. S. law agent, the following order was made, to wit:

(Vide page 48 of this Transcript.)

Petition of John C. Gore.

To the Board of Commissioners for ascertaining and settling private land claims in the State of California:

The petition of John C. Gore, of Monterey county, State of California, respectfully represents: That on or about the 3d of March, 1836, Nicholas Gutierrez, then governor of Upper California, granted to Fabian Barreto, a citizen of Mexico, a certain tract of land called "Pescadero," of the extent of one square league, bounded on the south by a gulch near the mission of Carmel; and on the northeast by the land of José Armentar; *and on the northeast by the land of José Armentar;* on the west by the sea shore, and on the east by the pine woods, (lying and being in the county of Monterey, California, as explained by the map which accompanies the original espediente.) That on or about the 22d of May, 1840, the said grant made as aforesaid was approved by the departmental assembly, and a certified copy of which approbation annexed to the said original grant. That on the 21st of December, 1840, judicial possession was given to the said Fabian Barreto of the said land, by David Spence, alcalde of Monterey. That on the 26th of May, 1846, the widow of said Fabian Barreto did convey the said tract of land called the Pescadero, granted as aforesaid, to Juan Romeo, of Monterey; that on the 27th of January, 1853, Maria Romeo, administratrix of the estate of the said Juan Romeo, conveyed to your petitioner the said tract of land called Pescadero, as aforesaid, which decree of conveyance was made in virtue of a sale, ordered by the probate court of Monterey county, California, copies of which original grant, confirmation, judicial possession, with translations and subsequent transfers, are herewith presented.

The premises considered, your petitioner prays that the said grant of land, of one league square, called the Pescadero, granted by Governor Nicholas Gutierrez to Fabian Barreto, as aforesaid, may be confirmed, and that he have a decree in his favor, and general relief.

As in duty bound, &c.

P. ORD, *Att'y for Petitioner.*

Filed in office, Feb'y 9, 1853.

GEO. FISHER, *Sec'y.*

Deposition of W. E. P. Hartnell.

SAN FRANCISCO, *Feb'y* 17, 1853.

On this day, before Comm'r Hiland Hall, came Wm. E. P. Hartnell, a witness in behalf of the claimant, John C. Gore, petition No. 564, and was duly sworn, his evidence being given in English.

The U. S. law agent was present.

Questions by Claimant's Counsel.

Quest. 1st. What is your name, age, occupation and place of residence?

Ans'r. My name is W. E. P. Hartnell, my age is fifty-five years, and I reside at Monterey.

Quest. 2d. Being shown a document marked H. H. No. 1, was asked whether he knew the signatures of Nicholas Gutierrez, A. Rameres, F. del Castillo Negrete, J. B. Alvarado, Antonio Ma. Osio, Manuel Jimeno, George Allen, David Spence, Guin'le Hory, G. de la Torre, wherever they occur in said document, and if their said signatures were true and genuine.

Ans'r. I am acquainted with the signatures, and believe them to be genuine.

Quest. 3d. Do you know the rancho of Pescadero, in Monterey county; and do you know when it was first occupied, and in what manner?

Ans'r. I know the rancho; it was occupied some time about the year 1836 by Fabian Barreto. He had some land under cultivation. It was afterwards occupied by the widow of John Romio, with a house, corral, and working-cattle.

W. E. P. HARTNELL.

Sworn and subscribed before me,

HILAND HALL, *Comm'r.*

Filed in office, Feb'y 17th, 1853.

GEO. FISHER, *Sec'ty.*

Espediente promovido en solicitud al parage que indica el diseño por Fabian Varreto.—151.

Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la aduana maritima de Monterey, de la Alta California, pr. los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.

Revaledado para el bienio de 1836 y 1837.

GUTIERREZ. A. RAMIREZ.

S'or Gefé Sup'or Politico:

Fabian Barreto, vecino de este lugar, ante V. S. como mas haza lugar en derecho represente y dice, que necesitando una parte escara de terreno pa. depositar en el algunas calusas de ganado y caballeria; ocurre V. S. á fin de que se le concede el parage nombrado el Pescadero, hasta la punta de Sipreses que todo hace un poco menos de una legua, segun el diseño que deber acompano. P. t., á V. S. pide y suplica á lo eida a su solicitud en y recibiré gracia y merced, a q. siempe vendra le concederle, jurandò lo necesario.

Monterey, 7 de Enero, de 1836.

FABIAN BARRETO.

MONTEREY, *Enero, de* 1836.

De conformidad con las leyes y reglamentos de la materia informa el Y. ayuntamiento de este capital, si el interesado en este instancia obtiene las requisitos prevenidos pa. su atendidas en esta solicitud se el

terreno q. pretende esta compendiende en las 20 leguas limitrofes ó 10 litorales, que previene la ley de Agosto, de 1824, si pertenece a particular corporacion a pueblo. El S'or Don Nicolas Gutierrez, ten'te coronel de cab'a, command'te general y gefé politico de la Alta California, asi lo mandó, decreto y firmó, de que doy fée.

NICOLAS GUTIERREZ,
F'DO DEL CASTILLO NEGRETE,
S'rio.

Monterey, Enero 16, de 1836.

En sesion de este dia paso á la comision de terreno.

ESTRADA. JOSE MARIA MALDONADO.

[*For map see original, page* 8.]

Sello Tercero, Dos Reales.

Habilitado provisionalmente pr. la aduana maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.

Revalidado para el bienio de 1836 y 1837.

GUTIERREZ. A. RAMIREZ.

Y. A: La comision de terrenos baldios impuesto de la solicitud del C. Fabian Barreta, proceadado a tomar los informes respectivos y ha resultado de ellos q. pertenece el terreno pedido a la comunidad del Carmelo por la que la comision pide. Que se libre oficio al comencionado del pueblo de S. Carlos, para que informe se dicho terreno pertenecia á aquellas indigenas, y con el resultado, vuelva a la comision.

Monterey, Enero 23, de 1836.

JOHN WALTON,
BONAFACIO MALDONADO.

MONTEREY, *En'o* 23, *de* 1836.

En sesion de hoy se acordó buelva a la comision pr. que se sugeto al informe que se pide, y reduzco sa proposiciones ó si se puede ó no conceder.

ESTRADA.
JOSE MA. MALDONADO, *S'rio* Y. *A.*

Y. A.:

La comission de terrenos valdios impuesta de la solicitud del C. Fabian Barreto, ha procedido ó tomar los informes respectivos y ha resultada de ellos que el terreno pertendado, segun la ley de 18 de Agosto, de

1824, esta compendido la las 20 leguas, limitrofes y diez litorales que dicho sugeto es Mexicano por nacimiento, que tiene buena conducta y posibilidad, para cultivar dicho terreno, aunque si pertinece al pueblo de Carmelo dicho terreno por la ql. la comicion pone a la deliberacion de la secretaria las propociones siguientes:

1o. Qu el C. Fabian Barreto obtiene las requisitos que previene la ley de 18 de Agosto, de 1824.

2o. No haver lugar á esta solicitud pertien dicho terreno al pueblo de Sn. Carmelo.

Monterey, Enero 30, de 1836.

BONIFACIO DE MADAREAGA,
SANTIAGO WATSON.

S'or Gefe Politico:

El Y. ayuntam'to la sesion de 30 de ppro. aprobo el antecedente dictamen, y se acordo el espediente á V. S. para su superior determinacion como resultado del informe.

Sello Cuarto de Officio.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

FIGUEROA.

Que se serva pedir por decreto de 9 del mismo, y lo verifico de acuerdo de d'ha corporation.

JOSE MA. MALDONADO, *Srio.*
JOSE R. ESTRADA.

Monterey, Febrero 7, de 1836.

Para al S. Admu'tro de S. Carlos para que informe si el Pescadero pertenesca arquello poblacion si esta concedido á alguno individuo para sus labores ó si pertinece al termino que esta señalado po. este puerto. El S. D. Nicolas Gutierrez, gefe politico interino del Territorio, asi lo mando, decreto y forme, de lo que certifico.

NICOLAS GUTIERREZ,
FRANC'O DEL CASTILLO NEGRETO, *Srio.*

En cumplimiento del anterior decreto del S'or Gefe Politico de este territorio, informar y como administrador de este pueblo de Sn. Carlos que el sitio llamado el Pescadero solicitado la este espediente por Fabiano Barreto es el conocido pr. perteneciente a esta poblacion, no esta concedido á ningun individuo es terreno valdio y por conseguiente colonizable, por lo que jusgo concederle siempre juicio de nadir al espresado Barreto.

JOSE ANTONIO BARRETO.

Pueblo de Sn. Carlos, 11 de Febrero, de 1836.

Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la aduana maritima de Monterey, de la Alta California, pa. los años de mil ochocientos treinta y seis, y mil ochocientos treinta y siete.

ANGEL RAMIREZ.

GUTIERREZ.

Monterey, Febrero 22.

Pare el alcalde de este capital haute quien la parte de Fabian Barreto, produscera una informacion de tres testigos idoneos que seran interrogados sobre los puntos siguientes: 1o. Si el solicitante es ciudadano Mejicano, si es casado ó tiene hijos, ó si es e buena conducta. 2o. Si el terreno que pretende pertenece a la propiedad de algun particular corporacion ó pueblo, si es de regadio temporal ó abrevadero y que estencion tendra. 3o. Si tiene bienes de campo con que poblarlo ó posibilidad de adquerirlos. Evacuados q. sean estas diligencias buelva el espediente pa. sa resolucion. El Sn. Dn. Nicolas Gutierrez, ten'te coronel coman'dte gr'al y gefe politico interino, hace lo mandó, decretó, firmó, de que doy fee.

FRANCO. DEL CASTILLO NEGRETE,
NICOLAS GUTIERREZ.

Monterey, Febrero 23, de 1836.

Notifiquese el interesado presente los testigos que se hace de examinar sobre los puntos aque se contratre al superior decreto ql. antecede y f'ha, devuelvase el espediente al S. gefe superior politico, para ql. resta los efectos q. haya lugar, asi yo el alcalde 1o constitucional, lo decreté, mandé y firmó.

JOSE R. ESTRADA.

De ass'a: EUGENIO MONTENEGRO,
De ass'a: JOSÉ MARIA MALDONADO.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana marítima del puerto de Monterey, de la Alta California, pa. los años de mil ochocientos treinta y seis, y mil ochocientos treinta y siete.

GUTIERREZ. A. RAMIREZ.

En la f'ha presente el C. Fabian Barreta se le notifico el ante q. antecede y de el entendido digo lo age q. que presente por testigos a los ciudadanos José Aguila, Antonio Buelea y José Santa Cruz, y no firmo por q. digo no saber por hizo yo y las de asistencia, de ql. doy fée.

JOSE R. ESTRADA.

De ass'a: JOSÉ MARIA MALDONADO,
De ass'a: EUGENIO MONTENEGRO.

En la f'ha presente el C. José Aguila lo recivi yo el alcalde el juramento q. hiso su forma de derecho bajo el cual ofrecio decir verdad en

lo que superior, y fuese preguntado y gliculdus sobre su nombre, estado y vecindad, digo, llamarse como queda dicho, que es casado, de cincuenta años y vecino de este municipalidad. Preguntado por el tenor del interrogativo que demuestra el anterior superior decreto, digo: A lo 1o, que es ciudadano por nacimiento; que es casado, no tiene hijos y que es de buena conducta, y responde. A lo 2o, que el terreno que presente pertenecia á la mision de Sn. Carlos; pero que no lo ocupa y se halla valdio que es de temporal, y su estencion tener de tres cuartos de legua y contesta. A lo 3o, que tiene bienes de campo y posibilidad de adquirir los que lo dicho es la verdad a cargo de juramento q. tiene hecho es el que se afirmo y ratifico, leida que le fue su declaracion, y lo firmó con migo y los de ass'a.

JOSE R. ESTRADA,
JOSE AGUILA.

Ass'a: JOSE MA. MALDONADO,
Ass'a: EUGENIO MONTENEGRO.

En la misma f'ha presente el C. Antonio Buelna Otorgó el juram'te respective, bajo el cual ofrecio decir verdad en lo que supiero y fue preguntado y siendolo pr. su nombre, estado, edad y vecindad, digo, se llama como dicho, es casado de cuarenta y cinco años, y vecino de Monterey.

Preguntado el mismo estilo que la fué el anterior, testigo, digo, art. 1o, que es ciuda'no Mejicano por nacimiento, que es casado—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis, y mil ochocientos treinte y siete.

GUTIERREZ. A. RAMIREZ.]

—que no tiene hijos y es de buena conducta y responde: A lo 2o, que el terreno que pretende sone pertenece á el termido municipal de este poblacion, pues asi lo acuendolo ex-diputacion en el año de 1830, que es de temporal y abrevadero y segun lo que se pide, tiene de estencion menos de una legua q. contesta. A lo 3o, que tiene bienes de campo y que lo dicho es la verdad a cargo del juramento que hecho tiene en el q. se a firmó q. ratifico leida que le fué su declaracion, y lo firmó con migo y los de mi ass'a.

JOSE R. ESTRADA,
ANTONIO BUELNA.

Incontinente presente el C. Jose Santa Cruz se le vecino juramento enforma de derecho pr. el cual ofrecio decir verdad en lo que supiese y fuere preguntado y siendolo por su nombre, estado, edad y vecindad diga llamarse, José Antonio Santa Cruz; que es casada de cuarenta y tres años y vecino de esta poblacion; que el mismo interrogatorio que la fueron los dos anteriores testigos, digo: A la 1o, que es ciudadano Mejicano pr. nacimiente; que es casado, notiene hijos y es de buena conducta y responde. A lo 2o, que el terreno que se solicita

siempre ha vido decir que pertenece á S. Carlos; que es de temporal, y que su estencion sena de tres cuartos de legua y conterla. A lo 3o, que se tiene bienes de campo y que lo dicho es de verdad á cargo de juramente, que tiene hecho en el que se a firmó y ratifico leida que le fue su declaracion, q. no firmó pr. no saber lo hise yo y los de asistencia.

JOSE R. ESTRADA,
JOSE MA. MALDONADO.

Ass'a: EUGENIO MONTENEGRO.

Concluida la informacion q. antecede se devuelva al S. gefe politico, un amplimiente de lo mandado en el anto que antecede, y para constancia lo anoto y rubrico.

Monterey, Febrero 26, de 1836.

Sello Tercero, Dos Reales.

Habilitado privicionalmente por la administracion de la aduana maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis, y mil ochocientos trienta y siete.

GUTIERREZ. A. RAMIREZ.

Ynforme el secretario si el terreno que se solicita esta comprendido dentro de los linderos del plano que la ex'ma diputacion apruebo para termino municipal.

GUTIERREZ.

En viste del espediente promovido por el Y. ayuntamiente de este puerto en solicitud del termino municipal y del plano que se acompaño resulta, que los linderos senalados por la punta sur a esta municipalidad, segun esta el cabo ó punta sur de la ensenada del Pescadero, por lo qe. el terreno en estencion conocido con el mismo nombre por ser el que forma la ensenada que lleva esta nombre entre el cabo y punta d'ho yo la del Cipres, esto comprendido dentro del termino municipal que aprueba la E. diputacion en quince de Octubre, del año pa. po. Es cuanto pueda informar sobre el particular cumpliende con el decrete superior dec'o.

Monterey, Febrero 26, de 1836.

FRANC'O DEL CASTILLO NEGRETE,
S'rio.

D'ros 12 ps.

MONTEREY, *Febr'o* 29, *de* 1836.

Vista la peticion con que a la principio este espediente el informe de la autoridad municipal, lo informaciones de testigos con todo lo demas fue se tuvo presente y ver conveno de conformidad con las leyes y reglamentos de la. materia, he venido en declararlo dueño absoluto del terreno conocido con el nombre del Pescadero el ciud'no Fabian Barreto, á reserva de la aprobacion de la ex'ma diputation. El S'or Don Nicolas Gutierrez, ten'te coronel de caballeria, comand'te g'ral y in-

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spector, y gefe politico de la Alta California, asi lo mando, decreto y firmo, de que doy fée.

NICOLAS GUTIERREZ,
FR'CO DEL CASTILLO NEGRETE, *S'rio.*

En 31 de Mayo paso a la comision de terrenos baldios.

MALDONADO.

Ex'mo S'or:

La comision de agricultura y comercio unidor encargado pr. V. E. de dictamenar los espediente que en la secion anterior acompaño el ex'ma s'or gobernador, y concedidos pr. el mismo gobierno y en contrando los conformes segun lo actuado y informes y demas que ver sepa pasido, proposa a la deliberacion de V. E. los articulos siguientes: Art. 1o, se aprueba la concesion hecha pr. el gobierno departamental con f'ha 29 de Febrero, de 1836, en la persona del ciudadano Fabian Barreto del parage nombrado el Pescadero; 2o, que se devuelva al Enero ex'mo s'or gobernador el espediente pr. los fines convenientes.

Monterey, Mayo 21, de 1840.

JOSE RAFAEL GONZALEZ,
S. ARGUELLO.

MONTEREY, 22 *de Mayo, de* 1841.

En sesion de este dia aprobo la ex'mo junta departmental, los dos articulos con que concluyo el dictamen anterior.

MANUEL JIMENO, *Pres'te.*
JOSE Z. FERNANDEZ, *S'rio.*

En 30 del mismo mes, se ledio a la parte testimonio, del dictamen y aprobacion anterior.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the eighteen preceding and hereunto annexed pages of tracing paper, numbered from one to eighteen inclusive, exhibit a true and accurate copy of a certain document now on file, and forming a part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this second day of November, 1853.

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office, Dec. 3d, 1853.

GEORGE FISHER, *Secretary.*

Translation of Espediente.

Espediente provided upon petition for the place of Pescadero for Fabian Barreto—No. 151.

Seal of the Third Class.

Provided provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1834 and 1835.

CASTRO. ANGEL RAMIREZ.

Renewed for the years 1836 and 1837.

GUTIERREZ. A. RAMIREZ.

To the Superior Political Chief:

Fabian Barreto, a resident of this place, before you, with due respect and as the law may best allow, and represents, that being in want of a small place to put some cattle and horses on, so that, in the end, you will concede him the place named the Pescadero, as far as Point Cypress, the whole of which is a little less than one square league, according to the map which duly accompanies this petition. Wherefore he prays that his petition may be heard, and that he may receive favor, giving thanks, and that he will forever acknowledge, swearing what is necessary.

FABIAN BARRETO.

Monterey, 7th January, 1836.

Marginal Decree.

MONTEREY, *Jan'y* 9, 1836.

In conformity with the laws and regulations on the subject, let the ayuntamiento of this capital report whether the petitioner possesses the necessary qualifications to be heard; if the land asked for is within twenty border leagues or ten sea-coast leagues, mentioned in the laws of the 18th of August, 1824; if it belongs to any person, corporation, or town. Thus Nicolas Gutierrez, lieutenant colonel of cavalry, commandant general and political chief of Upper California, commands, decrees, and gives faith.

NICOLAS GUTIERREZ,
FRAN'CO DEL CASTILLO NEGRETE,
Secretary.

Monterey, January 16, 1836.

In session of to-day—passed to the committee on lands.

ESTRADA. JOSE MARIA MALDONADO.

Seal of the Third Class, Two Reals.

Provided provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1834 and 1835.

CASTRO. ANGEL RAMIREZ.

Renewed for the years 1836 and 1837.

GUTIERREZ. A. RAMIREZ.

Illustrious Ayuntamiento:

The committee of vacant lands, charged with the petition of the citizen Fabian Barretto, have taken the necessary steps, and it results that the land asked for belongs to the community of Carmelo; wherefore the committee ask that the matter be referred to the commission of the pueblo of San Carlos for information whether said land belongs to any of the nations, and then return to the committee.

Monterey, January 23, 1836.

JAMES WATSON,
BONIFACIO DE MADARIAGA.

MONTEREY, *January* 23, 1836.

In session of to-day it was decreed to return this to the committee, that it may be submitted for the information asked, and reducing the proposition if it can or cannot be granted.

ESTRADA. JOSE MARIA MALDONADO, *S'rio.*

The committee on vacant lands, charged with the petition of the citizen Fabian Barreto, have taken the necessary information, and it results that the land asked for, according to the laws of the 18th of August, 1824, is not within the twenty border leagues, and is within the ten sea-coast leagues. That the petitioner is a Mexican by birth, and is of good character and qualified to cultivate said land, although the said land belongs to the pueblo of Carmelo. Wherefore the committee offer to the deliberation the following propositions:

1. That the citizen, Fabian Barreto, possesses the necessary qualifications required by the laws of the 18th of August, 1824.
2. The petition cannot be granted, because the land belongs to the pueblo of Carmelo.

Monterey, January 30, 1836.

BONIFACIO MADARIAGA,
SANTIAGO WATSON.

To the Superior Political Chief:

The illustrious ayuntamiento, in session of the 30th of last month, approved the foregoing report, and ordered the espediente to be passed to you for your superior determination, with the information required by your decree of the 9th of January, which is verified as the determination of said corporation.

JOSE R. ESTRADA,
JOSE MARIA MALDONADO, *Sec'y.*

Seal of the 4th Class for 1834–'5, &c.

MONTEREY, *February 7th*, 1836.

Let this be passed to the administracion of San Carlos for information, whether the Pescadero belongs to any town, if it has been given to any Indian sowing, or if it is within the marked limits of this

port. The Señor Don Nicolas Gutierrez, temporary political chief of the territory, thus commands, decrees, and gives evidence.

NICOLAS GUTIERREZ,
FRAN'CO DEL CASTILLO NEGRETE, *Sec'y*.

In compliance with the foregoing decree of the political chief of this territory, I report, as administrador of this pueblo of San Carlos, that the place called Pescadero asked for in this espediente by Fabian Barreto, is known as belonging to this population. It has not been conceded to any Indian, is vacant land, and consequently colonizable; wherefore it be granted to said Barreto without prejudice to any one.

Pueblo of San Carlos, 11th Feb'y, 1836.

JOSE ANTONIO ROMERO.

Seal of the Third Class, Two Reales.

Provided provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1836 and 1837.

GUTIERREZ. A. RAMIREZ.

MONTEREY, *February* 22.

Let this be passed to the alcalde of this capital, who, on the part of Fabian Barreto, will proceed to take the evidence of three proper witnesses, who will be interrogated upon the following points:

1. If the petitioner is a Mexican citizen, is married and has children, and is of good conduct?

2. If the land asked for is the property of any individual, corporation, or town; if it is irrigable, dependent upon the seasons, or pasture land?

3. If he has agricultural things, or is likely to have them, to put on the place? This being done, let this espediente be returned for its decision.

The Señ. D'n Nicholas Gutierrez, lieut. col., commandant general and temporary political chief, thus commands, decreed, and give faith.

NICHOLAS GUTIERREZ,
F. DEL CASTILLO NEGRETE, *Sec'y*.

MONTEREY, *February* 23, 1836.

Fees $4. Let the interested party appear with his witnesses, to be examined upon the points required by the superior antecedent decree, that the same may be returned to the superior political chief for necessary purposes: Thus I, the 1st constitutional alcalde, command, decree, and sign. JOSE R. ESTRADA.

Assistance of: JOSE MARIANO MALDONADO,
Assis. of: EUGENIO MONTENEGRO.

Seal of Third Class, Two Reales.

Provided provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1836 and 1837.

GUTIERREZ. A. RAMIREZ.

On the present date, the citizen Fabian Barreto was notified of the antecedent decree, and said that he heard and understood it, and that he presented for witnesses the citizens José Aguila, Antonio Buelna and José Santa Cruz, who did not sign, and saying they did not know how. I signed with the assisting witnesses, of which I give faith.

JOSE R. ESTRADA.

Assistance of: JOSE MARIA MALDONADO,
Assistance of: EUGENIO MONTENEGRO.

On the same day the citizen José Aguila, having been sworn by me, the alcalde, according to law, that he would tell the truth in relation to questions put as to his name, condition, age, residence, said that was named as before said; that he was married, fifty years old, and a resident of this municipality.

Question according to the tenor of the interrogatories in the antecedent superior decree: He said to the 1st, that he was a citizen by birth; that he was married, had no children, and was of good conduct; and answered to the 2d, that the land asked for belonged to the mission of San Carlos, but that it was not occupied, and was vacant; that it was dependent upon the seasons, and of the extent of about three-fourths of a square league; and answered to the 3d, that he had agricultural things, and the means of acquiring them; that what he says is true under the obligation of the oath which he ratifies and affirms. Having read his declaration, he signs with me and the assisting witnesses.

JOSE R. ESTRADA,
JOSE AGUILA.

Assistance of: JOSE MARIA MALDONADO,
Assistance of: EUGENIO MONTENEGRO.

On the same date the citizen Antonio Buelna, having taken the proper oath, under which he offered to tell the truth in what may be asked of him as to his name, condition, age, and residence, said that he is married, forty-five years old, and a resident of Monterey.

Question in the same manner as asked of the foregoing witness: He said to the 1st, that he is a Mexican citizen by birth; that he is married; and—

[Seal of the Third Class, Two Reales.

Provided provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1836 and 1837.

GUTIERREZ. A. RAMIREZ.]

—has no children, and is of good conduct; and answers to the 2d, that the land asked for he knows belongs to the municipal boundaries of this population, which were marked by the excellent deputation in the year 1830; that it is dependent upon the seasons and pasture land, and that the land asked for is of the extent of a little less than a square league; and answers to the 3d, that he has agricultural things; that

which he has said is the truth under the oath he has taken. Having read the declaration, he affirms and ratifies it; and he signs with me and the assisting witnesses.

ANTONIO BUELNA,
JOSE R. ESTRADA.

Assistance of: JOSE M'A MALDONADO,
Assistance of: EUGENIO MONTENEGRO.

In continuance of the present, the citizen Jose Santa Cruz was sworn according to law, that he would tell the truth of which might be asked of his name, age, condition and residence: That his name was José Antonio Santa Cruz; that he was married, and forty-three years old, and resident of this place. Question as to the same interrogations which were put to the two preceding witnesses: Answers as the 1st, that he is a Mexican citizen by birth; that he is married, has no children, and is of good conduct: and answers to the 2nd, that the land solicited, he has always heard it said that it belongs to San Carlos; that it is dependent upon the seasons, and of the extent of about three-fourths of a square league; and answers to the third, that he has agricultural things, which he says is the truth, under the obligation of his oath; and that he affirms and ratifies, having heard the declaration read, not knowing how to write. I sign, with the assisting witnesses.

JOSE R. ESTRADA.

Assistance of: JOSÉ MARIA MALDONADO.
Assistance of: EUGENIO MONTENEGRO.

The foregoing information having been completed, it is returned to the political chief, in accordance with the command of the antecedent decree, in testimony whereof I make my flourish. [Flourish.]

Seal of the 3d Class, Two Reales.

Provided provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1836 and 1837.

GUTIERREZ. A. RAMIREZ.

Monterey, February 26th, 1836.

Let the secretary report if the land which is asked for is comprehended within the limits of the plan which the excellent deputation approved for the municipal boundaries.

GUTIERREZ.

Inasmuch as this expediente, promoted by the illustrious ayuntamiento of this port, soliciting information of the municipal boundaries of the place, shown by the accompanying map, it results that the land marked on the south of this municipality reach as far as the head land, or southern point of the anchorage of what is shown and known by the name of the Pescadero, which anchorage, known by the same name, between the head land on said point and that of Point Cypress, being comprehended within the municipal limits approved by the excellent deputation on the 15th of October of the past year. This is all the

information I can give in this matter required by the superior decree of your excellency.

Monterey, February 26th, 1836.

FRAN'CO DEL CASTILLO NEGRETE.

MONTEREY, *Feb'y 29th*, 1836.

In view of the petition which commences this expediente, the report of the municipal authorities, the information of the witnesses, and all the rest which has been borne in mind and was necessary to be observed, in conformity with the laws and regulations on the subject, I declare citizen Fabian Barreto the absolute owner of the land known by the name of the Pescadero, subject to the approbation of the excellent deputation.

Nicholas Gutierrez, Lieut. col. of cavalry, permanent commandant-general and inspector, and political chief of Upper California, thus command, decree and sign, wherefore I give testimony,

NICOLAS GUTIERREZ.
F. DEL CASTILLO NEGRETE, *Sec'y*.

On the 3d of May it was passed to the committee on vacant lands.

MALDONADO, *Sec'ty*.

Excellent Sir:

The joint committee on agriculture and commerce, charged by your excellency with the determination of the expedientes sent by the gov't to the previous session, *any* granted by the said governor, and finding them correct, preferred the following articles for the deliberation of your excellency:

Art. 1st. They approve the commission made by the departmental governor of the date of the 29th of February, 1836, to the citizen Fabian Barreto, of the place called the Pescadero.

2d. That this espediente be returned to the excellent Governor for its convenient ends.

Monterey, May 21st, 1836.

S. ARGUELLO.
JOSE RAFAEL GONZALES.

MONTEREY, *22d of May*, 1840.

In session of to-day, the two concluding articles of the foregoing report were approved.

JOSE Z. FERNANDEZ, *Sec'y*.
MANUEL JIMENO, *Presid't*.

On the 30th of the same month evidence of the foregoing approbation was given to the party interested.

Filed in office Dec. 3d, 1853.

GEO. FISHER, *Sec'ty*.

Monterey, 1840.

Concesion y posesion del rancho nombrado Pescadero al ciudadano Fabian Barreto, el dia veinte y uno de D'bre de mil ochocientos cuarenta.

Sello Primero, Seis Pesos.

Habilitado provisionalmente por la administration de la aduana maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

A. RAMIREZ.

FIGUEROA.

Revalidado para el bienio de 1836 y 1837.

A. RAMIREZ.

GUTIERREZ.

[SEAL.] Nicolas Gutierrez, ten'te coronel de cabelleria a permanente comandante general y inspector, y gefe politico de la Alta California.

Por cuanto el ciud'no F. Barreto, Mexicano por nacimiento, ha pretendido para su benificio personal, y el de su familia, el terreno conocido con el Pescadero, colindante con el rancho de Ahmulta, practicadas previamente las diligencias, y averiguaciones concernientes, segun lo dispuesto pr. leges y reglamentos en decreto de este dia, usando de las facultades que me son conferidas ó a nombre de la nacion Mejicano, he venido en concederle el terreno mencionado, declarandole la propiedad de el pa. los presentes letras á reserva de la aprobacion de la ex'ma diputacion territorial, bajo las condiciones siguientes:

1o. Que se sometera a los q. estableira el reglamentos q. se ha de formar pr. la distribucion de terrenos baldios, y que entre tanto ni el agraciado ni sus herederos podran divider ni enagenar el que se les adjudica imponer censo, vinculo fianza hipoteca ni otro gravamen aunque sea pr. causa piadasa no paralo a manas muertas.

2o. Podra cercarlo sin perjudicar las travesias caminos, y servidumbres lo disfrutara libre, y esclusivamente destinandolo al uso ó cultivo ql. mas le acomode pero dentro de un año a la mas fabricara casa, y estara habitada.

3o. Solicitara del juez respectivo ql. le de la posecion juridica, en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pondra á mas de las mojoneras algunos arboles frutales, á silvestres de alguna utilidad.

4o. El terreno de que se hace donacion es de un sitio de ganado mayor, segun esplica el diseño ql. corre en el espediente. El juez que diere la posecion lo hara medio conforme á ordenanza quedando el sobrante que resulta a la nacion para los usos convenientes.

5o. Si contravinere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que serviendolo por titulo el presente y teniendose pr. firme y valedero sa tome razon de el en el libro á que corresponde y se entreque al interesado pr. su resguardo y demas fines.

Dado en Monterey, a las tres dias del mes de Marzo, de mil ochocientos treinta y seis.

NICOLAS GUTIERREZ,
FR'CO DEL CASTILLO NEGRETE,
S'rio.

Queda tomada razon de a fojas narente y siete á seis a la de con el S v'a nuavente y cuatro al libro que corresponde y obra en la secretaria de mi cargo.

Monterey, Marzo 4, de 1836.

CASTILLO.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima del puerto de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis, y mil ochocientos treinta y siete.

GUTIERREZ. ANGEL RAMIREZ.

Volga para los años de 1839 y 1840.

ALVARADO. ANTONIO MA. OSIO.

[SEAL.] Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias.

La ex'ma junta departamental, en sesion del dia 22 del corriente, aprobo la concesion que este gobierno hizo en f'ha 29 del Febrero, de 1836, del terreno conocido con el nombre del Pescadero al ciudadano Fabian Barreta, en los terminos siguientes:

Se aprueba la concesion hecha por el gobierno departamental con f'ha 29 de Febrero, de 1836, a la persona del ciudadano Fabian Barreta del parage nombrado el Pescadero. Y para resguardo de la parte interesado del ciudadano Fabian Barreto, y en confirmacion de su mencionado concesion se libra el presente en Monterey, a 30 de Mayo, de 1840.

ALVARADO.
MANUEL JIMENO,
S'rio del despacho.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

JIMENO. ANTONIO MA. OSIO.

S'or Juez de Paz:

Fabian Barreto, ciudadano Mejicano y vecino de este demarcacion, ante V. S. como mas haga lugar en derecho dice: Que habiendo ob-

tenido la concesion propio del terreno mencionado con el nombre de la Pescadero, ocurre a V. S. con el fin de que se sirva darla en posecion juridica confirme esta prevenido en el articulo 4o del titulo de dicho terreno, que se le espedir el dia tres del mes de Marzo, de mil ochocientos treinta y seis, que debidamente acompaña como igualmente la confirmacion respectiva para que toda obra en los efectos de se a dos y por tanto. A. V. suplico se sirva ponerlo en la posecion ql. solicita, de lo que recibire merced y justicia.

Monterey, 7 de Diciembre, de 1840.

Arruego del interesado firmé. JORGE ALLEN.

Por presentado y admitido puedan por mi, el presente juez, a la mediciones senalmente de linderos y judicial posecion que solicita el ciudadano Fabian Barreto, senalandose para su verificacion el dia veinte y uno del corriente, para lo cual se citaron con boletas de comparencio a los colindantes. Asi yo el juez de paz lo decreté, mandé y firmé, con los testigos de asistencia.

DAVID SPENCE.

Ass'a: GUND. HORESS,
Ass'a: GAB. DE LA TORRE.

En la fecha se les notifica el anté antecedente al ciud'no Fabian Barreto y entendido digo lo age que se de citado y por no saber firmar lo hizo yo con las de ass'a.

SPENCE.

Ass'a: GUILL'M FLORES,
Ass'a: G. DE LA TORRE.

Sello Cuarto, Una Cuartillo.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para las años de mil ochocientos cuarenta y mil ochocientos cuarenta y cinco.

ANTONIO MA OSIO.

ALVARADO.

El segúnda se libraron los boletas que se mandan con el anto anterior y para sa constancio lo anoto y rubriquo.

Ass'a: GUILL'MO FLORES, SPENCE.
Ass'a: G. DE LA TORRE.

Rancho del Pescadero, 21 de Dec'bre, de 1840.

Presente el colindante José Aumenta y los testigos de assistencia nombre para medidores a los Ciud'nos Francisco Arenas y Juan Maria Olivera, para la medida serram'to de linderos y posecion del Ciud'no Fabian Barreto, quienes previa la aceptacion y juram'to procederan al desempeño de su encargo. Asi yo el juez de paz constitu'al de esta demarcacion, lo decreté, mandé y firmé, con los de asistencia.

DAVID SPENCE.

Ass'a: GUIL. FLORES,
Ass'a: G. DE LA TORRE.

En la misma f'ha presente las Ciudadanos Francisco Arenas y Juan Maria Olivera, se les notifico el anto de su nombramiento y de el entendido dijeran lo ogen que aceptaban y aceptaron jurando por Dios nuestra Señor y una señal de la cruz, conforme a d'ho mule fiel y legalmente a todo sa le, al saber y entender sin fraude contra persona alguna, y no firmaron por no saber y lo hize, yo con los de asistencia.

SPENCE.

Ass'a: GUILL'O FLORES,
Ass'a: G. DE LA TORRE.

Yncontenter yo el referido juez de paz mandé traer a mi presencia el cordel con que habian de hacer la medida las espresados medidores, la tomaron y aute mi con una vara de medio usual Mejicano, medio cincuento varas, para hacer la medicion y la firme con migo y los de mi asistencia.

D. SPENCE.

GUILL'MO FLORES,
G. DE LA TORRE.

En el mismo parage dia, mes y año, sienda como las diez del dia, yo el presente juez de paz constitucional de esta demarcacion, mande a los medidores nombrados se dispusiesen para hacer la medida de tierras que se le habia de hacer al Ciud'no Fabian Barreto, y puesto des de del sanjon linderos de la mision del Carmelo hasta los linderos de Jose Armenta, noroeste se medieron sesenta y dos cordeles de largo y des de entre el Pinal, a la orilla de la mar, noreste se medieron cuarente y ocho cordeles de ancho. En cuyos mediciones mande si formaron las mojoneras correspond'tes que señalen las linderos que le pertenecen. El terreno medido corresponde a un sitió de ganado mayor poco mas o menos, y para que conste lo formé con los de asistencia, por no saber el interesado y colindantes.

DAVID SPENCE.

Ass'a: GUN'DO FLORES,
Ass'a: G. DE LA TORRE.

En el rancho del Pescadero a las treinte y un dias del mes de Diciembre, de mil ochocientos cuarento, yo, el juez de paz constitucional de esta demarcacion, Ciud'no David Spence, despuez de practicadas las medidas del mencionado rancho por lo que resulte tener un sitio de ganado mayor, poco mas o menos, y presente el colindante Ciud'no José Armente, siendo este conforme con lo demas que—

[Sello Cuarto, Una Cuartilla.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y una.

ALVARADO. ANTONIO MARIA OSIO.]

—consta de autos. Mande que la hase la posecion del mencionade sitio el Ciudadano Fabian Barreto, bajo las medidas citadas y formalidades acostumbrada en estas caros lo que verifico inmediamente, arrancando yerbas y haciendo demostraciones como dueno del terreno de que se le ha dado juridica posecion, cuya valedacion lo autorizo firmando con los de asistencia.

DAVID SPENCE.

GUN'DO FLORES,
A. G. DE LA TORRE.

MONTEREY, *Dec'e* 21, *de* 1840.

Tomo se razon en el libro de posesiones y devuelvase este espediente, original al interesado para que se serba de titulo. Asi yo el juez de paz, de esta jurisdiccion lo decreté, mandé y firmé con las de asistencia.

GUM'LO FLORES, SPENCE.
Ass'a: G. DE LA TORRE.

En la misma f'ha se tomaron a fojas quince, del libro respectivo y se devuelva el espediente original al ciudadano Fabian Barreto, en ocho fojas utiles, la cumplimiento de la mando en el antecedente auto y para que conste anoto y rubrico.

The foregoing deed of grant, approval and juridical possession, was received for record 27th January, 1853, at 11.55 a. m., and was recorded in book C of deeds of grants, pages 65 and 69.

THS. JOHNSON,
County Clerk and ex-officio Co. Recorder, Monterey county.

Filed in office, Feb'y 17, 1853.

GEO. FISHER, *Sec'y.*

Translation of original Grant and judicial Possession and Transfer.

Third Seal, Two Reals.

Authorized provisionally for the maritime custom-house of Monterey, in the department of California, for the years 1840 and 1841.

XIMENO. ANTONIO MARIA OSIO.

To the Justice of the Peace:

Fabian Barreto, a Mexican citizen and resident of this vicinity, respectfully appears before you and says: That having obtained a proper title to the land known by the name of the Pescadero, he asks that you will give him judicial possession of the same, in conformity to the article 4th of the title to said land, which was given on the 3d of March, 1836, which is duly accompanied with the confirmation necessary, so that it may have the desired effect. Therefore, he begs that you will give him possession, as solicited; giving thanks.

Monterey, 7th December, 1840.

At the request of the petitioner, I sign.

(Signed) GEORGE ALLEN.

Presented and admitted, I, the present judge, shall proceed to the measurement and marking of the boundaries and judicial possession, as asked for by the citizen Fabian Barreto, fixing the time on the 21st of this month, that the citations may issue to the adjoining land owners to appear. Thus I, the justice of the peace, decree, command, and sign with the assisting witnesses.

(Signed) DAVID SPENCE.

Witnesses:

Ass'a: (Sgnd.) GUM'O FLORES,
" (") G. DE LA TORRE.

On the same day, the citizen Fabian Barreto was notified, who heard and understood it, and considered himself cited; and not knowing how to write, I sign with the assisting witnesses.

DAVID SPENCE.

(Signed) Ass'a: GUM'LO HOXY,
(") " G. DE LA TORRE.

Fourth Seal, Three Cents.

Authorized provisionally by the maritime custom-house of Monterey, in the department of the Californias, for the years 1840 and 1841.

ALVARADO. ANTONIO MA. OSIO.

[SEAL.]

The citations ordered in the foregoing decree were sent. In testimony whereof, I sign with my flourish.

(Signed) SPENCE.

De ass'a: (Sgnd.) GUM'LO HOXY,
" " (") G. DE LA TORRE.

Rancho of the Pescadero, 21st of December, 1840; present, the colindantes José Armenter, and the witnesses assisting. I named for measurers the citizens Francisco Arnas and Juan Maria Olivera, to measure and mark the boundaries of the possession of the citizen Fabian Barreto, who, on accepting and taking the oath, will proceed to execute their commission. Thus I, the constitutional judge of the peace, command, deed, decree, and sign with the assisting witnesses.

(Signed) DAVID SPENCE.

De ass'a: (Signed) GUM'LO HOXY,
De ass'a: (") G. DE LA TORRE.

On the same day, being present the citizens Francisco Arnas and Juan Maria Olivera, the decree of their appointment was notified to them, and having understood it, they said they heard it and accepted said commission, swearing by the Lord and God and the sign of the cross, that they would execute it faithfully and without fraud against

any one; and not knowing how to sign, I did sign with the assisting witnesses.

(Signed) SPENCE.

De ass'a: (Signed) GUM'LO HOXY,
De ass'a: (") G. DE LA TORRE.

Immediately after, I, the said justice of the peace, did order the cord wherewith the land was to be measured to be brought in my presence; and said measurers took it, and before me, with a common Mexican vara, measured a cord of fifty varas, to measure with.

Fourth Seal, Three Cents.

Authorized provisionally for the maritime custom-house of Monterey, in the department of the Californias, for the years 1840 and 1841.

ALVARADO. ANTONIO MARIA OSIO.

[SEAL.]

And I signed it with the assisting witnesses.

(Signed) SPENCE.

De ass'a: (Signed) GUN'LO HOXY,
" (") G. DE LA TORRE.

In the same place, day, month, and year, it being about ten o'clock in the day, I, the present constitutional justice of the peace of this district, commanded the measurers named to get ready for the measurements of the land to be made to the citizen Fabian Barreto, and placing themselves at the gulch, the line of the mission of Carmel to the lines of José Armenter northwest, they measured seventy-two ropes (cordels) in length; and thence from the pine woods to the sea-shore northeast, they measured forty-eight ropes (cordels) in width; at which measurement I ordered the corresponding landmarks to be placed to designate the proper boundaries. The land measured corresponds to a square league, a little more or less.

In testimony whereof, I sign with the assisting witnesses, the grantee and the adjoining land owners not knowing how to sign.

(Signed) DAVID SPENCE.

De ass'a: (Signed) GUM'LO HOXY,
De ass'a: (") G. DE LA TORRE.

In the rancho of the Pescadero, on the 21st of December, 1840, I, the constitutional justice of the peace of this district, citizen David Spence, have concluded the measurements of said rancho, which gave the result of containing one square league, a little more or less; and being present, the adjoining land owners, the citizen José Armenter—

[Seal Fourth, Three Cents.

Authorized provisionally for the maritime custom-house of Monterey, port in the department of the Californias, for the years 1840 and 1841,

ALVARADO. ANTONIO M'A OSIO.]

[SEAL.]

—and satisfied with what was done, I ordered that the citizen Fabian Barreto should enter into the possession of the said place, in conformity with the said measurements, and with the usual formalities in such cases, which he immediately did, pulling up grass and making demonstrations of ownership of the land, of which judicial possession was given him; the validity of which I authorize, signing with the assisting witnesses.

(Signed) DAVID SPENCE.

De ass'a: (Signed) Gum'lo Hoxy,
" (") G. de la Torre.

Let a record be made in the Book of Possessions, and let this original espediente be returned to the interested party, that it may serve him as a title.

Thus I, the constitutional justice of the peace of this district, decree, command, and sign, with the assisting witnesses.

(Signed) DAVID SPENCE.

De ass'a: (Signed) Gum'lo Hoxy,
" (") G. de la Torre.

At the same date a record was made at folio fifteen of the respective book, and this original espediente was returned to the citizen Fabian Barreto, written upon eight folios.

In testimony of which, I sign with my scroll. [Scroll.]

The foregoing deed of grant, approved, and judicial possession were received for record, 27th January, 1853, at 11.55 a. m., and are recorded in book "C," of Decrees of Grants, pages 65 to 69.

(Signed) WM. S. JOHNSON,
County Clerk and ex-officio C. Recorder, Monterey Co.

Filed in office, February 9, 1853.

GEO. FISHER, *Sec'y*.

En el puerto de Monterey, a los veinte dias del mes de Mayo, del año de mil ochocientos cuarente y seis, ante mi, Joaquin S. Escamilla, alcalde segundo constitucional de esta capital, y ante los testigos de asistencia, con quienes actuo en la forma estableceda por falta de escribano publico, ó mas de los instrumentales de y al fin aun mencion posecion de presente Da. Maria del Carmen Garcia, viuda del finado Fabian Barreto, vecino de este lugar, cuya persona doy fée conosco, y digo: que por si y á nombre sus creedores y sucesores si alcon tubiese y de quien de ellos hubiese titulo por y fama la cualquiera manera venda en da enventa solemne, y enagenacion perpetua por juro de heredad para siempre jamos a Don Juan Romio, vecino de este misma lugar, y tambien doy fé conosco el terreno conocido con el nombre de Pescadero colindante con el de Arminter; cuyo terreno se compone de un sitio de ganado mayor, segun consta por el titulo q. con fha tres de Mayo, del año de mil ochocientos trenta y seis, espedido en favor de su esposo de funto, el S'or D. Nicolas Gutierrez, gobernador, que fue de

este departamente, en aquel tiempo cuyo titulo fué aprovado, por la ex'ma junta departamental, en trenta de Mayo, del año de mil ochocientos cuarente, segun consta por la certificacion del S'or Don Juan Bautista Alvarado, y con adjudecado al titulo deposecion espedido por el S'or Don David Spence, alcalde constitucional de este demarcacion, en veinte y uno de Diciembre, de mil ochocientos cuarenta, cuyos tres documentos, presentado la citada Da. Maria del Carmen Garcia, en este juzgado y doy fé, haber vista y siendo su venta de dicho terreno, segun el trato de ambos partes la cantidad de quinientos pesos de q. se de la citada, Maria del Carmen Garcia, por recebido a su satisfacion; declarenda no tener vendido enagenarlo ni empresado, dicho terreno y que esta libre de toda gravamen publico perpetua temporal, ó especial tacito ó espreso y como si libre de la se lo vende al referido Dn. Juan Romio, en el precio de ello y sobre no parece de presente, su entregue renuncias las leyes de ella las de su prueba, y paro del mismo como en ella se contiene, y hace mismo declaro q. el justo precio y verdadera, valor del mencionado terreno, son los referidas quinientos pesos q. no vale mas y si mas valen puedee desde su poco ó macho suma hacin fabor del comprador, de sus herederos y sucesores gracia, y donacion pura perfecta y irrevocable, que en derecho se ll'ma entra vivos commissiones, y demas firmesas legales y la consequencia desde hay en adelante para siempre si des apodera decrete, quiete y aparte del dominio ó propiedad, posecion titulo voz ó venarlo y cualquiera otro derecho q. le competa en el mencionada terreno y se lo sede y traspase en el comprador para que la posea, goze cambié enagene use y disponga de el á su elecion, como de eden suya adquerida con justo titulo a cuya efecto le confiere poder irrevocable con libre franca y general administracion; y a le observacione de todo el referido obliga el otorgante sus bienes presentes, y futuras y con ellas se someté fuero y jurisdicion de las S.S. Jueces, y en sus cosas deban conocer, para que en su complimiento lo competen y afirmar como por sentencia de fimilar con sentida, y pasado en autoridad de cosa juzgada que portal du ricibo, renuncio las leyes y en caso le fabrescan y la general del derecho á formá.

En cuya testimonio, asi lo otorgo y por no saber firma ó ruego de ella firmo en su lugar, Don Guillermo Eduardo Hartnell, vecino de este lugar con migo y los de mi asistencia, siendo los instrumentales los cuidadanos D. Santiago Watson, Don George Allen, y Don Guillermo Eduardo Hartnell, presentes, y vecinos de que yo el referida juez, doy fée.

JOAQUIN ESCAMILLA,
GUILL'MO ED'O HARTNELL.

Ass'a: BERNARDINO SOTO,
Ass'a: AMBROSIA GOMEZ.

I, W. Johnson, county clerk and ex-officio recorder in and for the county of Monterey, State of California, do hereby certify that the foregoing instrument in writing, contained in the four preceding pages,

is a correct copy of an original instrument on record in my office as county recorder, the same having been among other records transferred to my office by the alcalde of Monterey, under an act of the legislature of said State, passed February 29, 1850, entitled "An act to supersede certain courts, and to regulate appeals therefrom to the Supreme Court."

Witness my hand and official seal, this 28th day of January, 1853.

W. S. JOHNSON, [SEAL.]

County clerk and ex-officio county recorder, Monterey county.

Filed in office February 9, 1853.

GEO. FISHER, *Sec'y.*

Estendiendose en papel comun por na haber del sello.

JL. CAMILLA.

Translation of deed to Juan Romio.

In the port of Monterey, on the 20th of May, 1846, before me, Joaquin S. Escamilla, second constitutional alcalde of this capital, and the assisting witnesses, who act with me, according to law, in the absence of the notary public, and of the parties hereinafter mentioned, personally appeared Dona Maria del Carmen Garcia, widow of the deceased Fabian Barreto, a resident of this place, personally known to me, and says: That in her own name, and in the name of her heirs and successors, and of any of them having voice or interest in any manner whatever, she sells and gives in sale, solemnly, publicly, and forever, the right of succession to Don Juan Romio, a resident of said place, also personally known to me, the land known by the name of the Pescadero, bounded by the ranch of Armento, which land is of the extent of one square league, as appears by the title of the date of the 3d of March, of the year 1836, granted to her deceased husband by Don Nicolas Guterrez, who was governor of this department at that time, which title was approved by the excellent departmental assembly on the 30th of May, in the year 1840, as appears by the authentication of the Señor Don Juan Bautisto Alvarado, accompanying the title, and the title of possession given by S'or Don David Spence, constitutional alcalde of this district, on the 21st of December, of the year 1840; which three documents were presented by the said Don Maria del Carmen Garcia in this court, which I certify having seen, and being on the land sold, according to the contract of both parties, for the price of five hundred dollars, which the said Maria del Carmen Garcia has received to her satisfaction, she declaring that she has not sold or encumbered the said land, and that it is free of all public and private, special or tacit encumbrances; and that, as such, she sells it to the said Juan Romio for the said price; and, that no one may disturb his possession, she renounces the laws in her favor; and, in proof of the payment as aforesaid by these presents, she declares that the aforesaid price is a just price and the true value of said land; and that it is not worth more than the said five hundred dollars; and, if it be worth

more, the excess, be it much or little, she gives to the said buyer and his heirs and assigns; the said donation being simple, perfect, and irrevocable, as between so called (inter vivas—the living) agreeing to it according to the legal forms; and for the present and future and forever, she gives up and abandons the ownership, possession, title and right of claiming, or whatever other right she may have to said land, and grants to the said buyer for his possession to enjoy, exchange, sell, use, or dispose, as he may please, as a thing acquired by a just title; in virtue of which, she confers upon him irrevocable power of free and general administration. And for the performance of the said obligations, I pledge my present and future property, and will submit to the jurisdiction of the judges in such case. And in the fulfilment of their judgment, will submit to their authority, renouncing the laws in my favor in such cases.

In testimony whereof, this is signed for the interested party at her request, she not knowing how, signing in her place D'n William Edward Hartnell, citizen of this place, with me and the assisting witnesses, being the citizens D. Santiago Watson, D. George Allen, and D. William Antonio Hartnell, present and citizens, of which I the said judge give faith.

JOAQUIN ESCAMILLA,
GUILL'O ED'O HARTNELL.

Ass'a: BERNARDINO SOTO,
Ass'a: AMBROSIO GOMEZ.

The foregoing is permitted on common paper, because I have no sealed paper.

ESCAMILLA.

Filed in office, Feb'y 9, 1853.

GEO. FISHER, *Sec'y.*

Deed from M. Romio to Gore.

This instrument, made this 21st day of January, A. D. 1853, between Maria Romio, administratrix of the estate of John F. Romio, deceased, and John C. Gore, of the city of Monterey, witnesseth: That whereas the said rancho Pescadero, situated in the county of Monterey and State of California, and belonging to said estate, was ordered to be sold by the probate court of said county, which order of sale was as follows, to wit: "On reading and filing petition of Maria Romio, administratrix of this estate, and natural guardian of the infant heirs, and consent of all paties interested, it is ordered, that Maria Romio, administratrix of said estate, do proceed, and is hereby authorized to sell for cash the following described property belonging to the estate of said deceased, to wit: All that tract of land situated in the county of Monterey, and known as the rancho Pescadero, of about one league of land; and notice of the sale shall be duly given in the Santa Clara Register, published in San José." And this order of sale being made in said court on the 22d day of November, A. D. 1852, said administratrix duly advertised said rancho for sale; and on the

15th day of January, A. D. 1853, at public auction at the court-house door in the county of Monterey, did strike off and sell the said rancho to said John C. Gore, for the sum of four thousand and four hundred dollars, he being the highest bidder, and that being the highest sum bid at said sale.

And whereas said probate court, on the 17th day of January, A. D. 1853, did confirm sale and direct a conveyance to be made to said Gore, and which order of confirmation is as follows, to wit: "Whereas, on the 22d day of November, 1852, an order was made by this court for the sale of the rancho Pescadero, belonging to the estate of said Romio; and it appearing by the report of the administratrix of this estate, that said rancho was sold at public auction on the 15th day of January, A. D. 1853, at 11 o'clock, a. m., at the door of the court-house in the county of Monterey, where said property is situated, to John C. Gore, who was the highest bidder, for the sum ($4,400) four thousand four hundred dollars; and it now being further proved to the satisfaction of this court that due notice of said sale were both published and posted up for the required time, according to law; and it appearing to this court that said sale was legally made, and that said sum bid is a fair price for said rancho, now, it is ordered, that said sale do stand confirmed by this court, and said administratrix is hereby directed to make a conveyance of said rancho to said purchaser on receiving said amount bid and the costs of the conveyance." Now, in consideration of the premises, and said sum of four thousand and four hundred dollars, the receipt of which is hereby admitted, said Maria Romio, administratrix as aforesaid, does hereby sell, transfer, quit-claim, and convey to said John C. Gore, his heirs and assigns forever, all that tract and parcel of land situated in the county of Monterey and State of California, consisting of one league of land, more or less, and known as the rancho Pescadero; said Gore, his heirs and assigns, to have and to hold in absolute fee-simple forever all the right, title, and interest of John F. Romio, deceased, in and to said rancho at the time of his decease.

Done at the city of Monterey on the day and year first above written.

MARIA ROMIO, [SEAL.]
Administratrix of the estate of John F. Romio, deceased.

Signed and sealed, and delivered in presence of—
D. R. ASHLEY.

STATE OF CALIFORNIA,
County of Monterey.

On this 22d day of January, A. D. 1853, personally appeared before me, a notary public in and for said county, Maria Romio, to me personally known, who acknowledged that she executed the within conveyance freely and voluntarily, and for the uses and purposes therein mentioned, and in the character of administratrix of the estate of John F. Romio, deceased, and by the authority therein stated.

[SEAL.] D. R. ASHLEY, *Notary Public.*

Received for record the 24th of January, 1853, at 3.12 p. m. Recorded in book A, Conveyances, pages 440, 441 & 442.

W. J. JOHNSTON,
Recorder of Monterey county.

Filed in office, Oct. 31, 1853.

GEO. FISHER, *Sec'y.*

This instrument, made this twenty-first day of January, A. D. 1853, between Maria Romio, administratrix of the estate of John F. Romio, deceased, and John C. Gore, of the city of Monterey, witnesseth: That whereas the Rancho Pescadero, situated in the county of Monterey and State of California, and belonging to said estate, was ordered to be sold by the probate court of said county, which order of sale was as follows, to wit: "On reading and filing petition of Maria Romio, administratrix of this estate and natural guardian of the infant heirs, and consent of all parties interested, it is ordered that Maria Romio, administratrix of said estate, do proceed, and is hereby authorized, to sell for cash all the following described property belonging to the estate of said deceased, to wit: all that tract of land situated in the county of Monterey and known as the Rancho Pescadero, of about one league of land, and notice of the sale shall be duly given in the Santa Clara Register, published in San José; and this order of sale being made in said court on the 22d day of November, A. D. 1852, said administratrix duly advertised said rancho for sale, and on the 15th day of January, 1853, at public auction, at the court-house door, in the county of Monterey, did strike off and sell the said rancho to said John C. Gore for the sum of four thousand and four hundred dollars, he being the highest bidder, and that being the highest sum bid at said sale: And whereas said probate court, on the 17th day of January, A. D. 1853, did confirm said sale, and direct a conveyance to be made to said Gore, and which order of confirmation is as follows, to wit: "Whereas on the 22d day of November, 1852, an order was made by this court for the sale of the Ranch Pescadero, belonging to the estate of said Romio, and it appearing by the report of the administratrix of this estate that said rancho was sold at public auction on the 15th day of January, A. D. 1853 at 11 o'clock a. m., at the door of the court-house, in the county of Monterey, where said property is situated, to John C. Gore, who was the highest bidder, for the sum of ($4,400) four thousand four hundred dollars; and it now being further proved to the satisfaction of this court that due notice of said sale were both published and posted up for the required time, according to law, and it appearing to this court that said sale was legally made, and that said sum bid is a fair price for said rancho, now it is ordered that said sale do stand confirmed by this court, and said administratrix is hereby directed to make a conveyance of said rancho to said purchaser on receiving said amount bid and the costs of the conveyance: Now, in consideration of the premises and said sum of four thousand and four hundred dollars, the receipt whereo is hereby admitted, said Maria Romio, administratrix as afore-

said, does hereby sell, transfer, quit-claim, and convey to said John C. Gore, his heirs and assigns, forever, all that tract and parcel of land situated in the county of Monterey and State of California, consisting of one league of land, more or less, and known as the Rancho Pescadero; said Gore, his heirs and assigns, to have and to hold, in absolute fee simple, all the right, title, and interest of John F. Romio, deceased, in and to said rancho at the time of his decease.

Done at the city of Monterey on the day and year first above written.

MARIA ROMIO, [SEAL.]
Administratrix of the estate of John F. Romio, deceased.

Signed, sealed, and delivered in presence of—
D. R. ASHLEY.

STATE OF CALIFORNIA,
County of Monterey.

On the 22d day of January, A. D. 1853, personally appeared before me, notary public in and for said county, Maria Romio, to me personally known, who acknowledged that she executed the within conveyance freely and voluntarily, and for the uses and purposes therein mentioned, and in the character of administratrix of the estate of John F. Romio, deceased, and by the authority therein stated.

[SEAL.] D. R. ASHLEY,
Notary Public.

Received for record 24th January, 1853, at 3.12 p. m. Recorded in Book "A, "Conveyances, pages 440, 441, and 442.

W. J. JOHNSTON,
Recorder of Monterey Co.

Filed in office, Feb'y 9th, 1853.

GEO. FISHER, *Sect'y.*

Opinion of Board of Com'rs, by Com'r Felch.

JOHN C. GORE
vs.
THE UNITED STATES.

For the place called Pescadero, in Monterey county, containing one square league of land.

The original grant of the land, a traced copy of the espediente, and the testimonial of judicial possession given under the grant, duly authenticated, are given in evidence. The grant was made to Fabian Barreto, by Nicholas Gutierrez, March 3d, 1836, and judicial possession of the land was given December 20th, 1840. It is also shown that the approval of the departmental assembly was given May 22d, 1840. The proof shows that the land was occupied by the grantee about the time of issuing the grant, and that the grantee had a portion of the premises under cultivation.

The present claimant alleges title in himself to be derived from Barreto, through two mesne conveyances, both of which, as valid conveyances of the title, it is incumbent on him to establish by legal proofs. The first conveyance of the title held by Barreto under his grant is alleged to have been made to Juan Romio. No decree from Barreto to Romio is produced. The only evidence of this alleged transfer of title which is given is the certified copy of a conveyance, executed by the latter, by Maria del Carmen, represented to be the widow of said Barreto. No evidence is given which in any manner connects the person making this conveyance with the grantee. No proof is presented showing his decease, and no evidence that she is the wife or the widow of said Barreto, or that she had any interest in the premises which she could, in her own right, convey; or that she possessed any representative capacity, by which she could convey his estate. The recital in the decree that she is his widow supplies none of these indispensable requisites to title thus derived. So far as appears by this proof in the case, Barreto is still the legal owner of the estate. The proof as to the conveyance of the title, alleged to have been held by Juan Romio, to the present claimant is equally defective. A deed purporting to have been made by Maria Romio to him is given in evidence. This decree contains recitals that she is the administratrix of said Juan Romio; but there is no testimony tending to show that said Juan Romio is dead; that she is the administratrix on his estate; that license for the sale of his estate was obtained; or, indeed, that any action was ever taken or conveyance had by the court of probate on the subject. The recitals in the deed stand alone, and unaided by proof of any kind. If such recitals, made in deeds executed by a person not holding the title, could divest a legal owner of his estate, or establish a title in a new claimant to it, any stranger can, by recitals gratuitous and unauthorized, divest the estate of any property owner, and clothe a third party with the evidence of a title to it. But the rule of law as well as of justice is otherwise: every person claiming an estate drawn from another, by operation of law and as his legal representative, must prove his relationship to the party, and the happening of any event necessary to invest him with the title; and he who claims through a conveyance made by any other than the person who holds by grant or deed, must show by legal evidence the title or the authority to make the conveyance vested in him who undertakes to convey. Such testimony in the case before us is not given; and the claim cannot therefore be confirmed.

Filed in office, Feb'y 28th.

GEO. FISHER, *Sec'y.*

JOHN C. GORE
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petition is not valid, and his application for a confirmation thereof is therefore denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG'T. THOMPSON,
Commissioners.

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby

Ordered: That two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing forty-eight pages, numbered from 1 to 48 inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 564, on the docket of the said board, wherein John C. Gore is the claimant against the United States for the place known by the name of "El Pescadero."

In testimony whereof I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [SEAL.] California, this thirtieth day of October, A. D. 1854, and of the independence of America the seventy-ninth.

GEO. FISHER, *Sec'ty.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify that the foregoing forty-eight pages, numbered from 1 to 48, both inclusive, contain a full, true, and correct copy of transcript in case No. 157, filed in my office,

wherein John C. Gore is the appellant and the United States are the appellees for the place called "El Pescadero."

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, this eighth day of May, A. D. 1856.

[SEAL.]

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'y*.

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

Be it remembered, that on the 8th day of November, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit: A duly certified transcript of the record of the proceedings and decision of the U. S. board of land commissioners to ascertain and settle the private land claims in the State of California, and of the documentary evidence and testimony of witnesses upon which said decision was founded, in the case wherein John C. Gore is the claimant against the United States, for the place called "El Pescadero," was received and filed, and docketed with No. 157 on the docket of said court, and is in the words and figures following, to wit:

(Vide page 1 of Transcript.)

Upon which the following subsequent proceedings were had in their chronological order, to wit:

MONTEREY, *Sept. 9th*, 1854.

In this case, notice of appeal from the decision of land commission filed by claimant.

(Vide page 3.)

LOS ANGELES, *Mch. 22*, '55.

Petition for review filed by claimant.

(Vide page 4.)

LOS ANGELES, *April 9th*, '55.

The answer of U. S. dist. atty. filed.

(Vide page 5.)

LOS ANGELES, *June* 13, '55.

Motion and order to take further testimony filed.

(Vide page 10.)

MONTEREY, *June 14th*, 1855.

Deposition of David Spence, a witness on behalf of claimant, filed.

(Vide page 11.)

MONTEREY, *June 15th*, 1855.

Deposition of José Abrego, a witness on the part of claimant, filed.

(Vide page 14.)

Oct'r 11*th*, 1855.

Notice of hearing filed by U. S. dist. atty.

(Vide page 16.)

Jan'y 17*th*, 1856.

Inventory of property belonging to estate of J. F. Romio, deceased, filed.

(Vide page 17.)

Jan'y 17*th*, 1856.

Stipulation between counsel, that copy of documents on pages 35 and 36 of transcript in this case shall be held as a true copy of original, filed.

(Vide page 19.)

Jan'y 17*th*, 1856.

Copy of record of proceedings in the probate court of Monterey county, in the matter of the estate of John F. Romio, deceased, filed.

(Vide page 19.)

Jan'y 21*st*, 1856.

Decree of this court confirming the claim of appellant filed.

(Vide page 26.)

Mch. 7*th*, 1856.

Appeal, order of, granted by the court to the Supm. Court of the U. S.

(Vide page 28.)

Notice of Appeal.

CLERK'S OFFICE OF THE DISTRICT COURT OF THE UNITED STATES *for the Southern District of California.*

Whereas the commissioner constituted for the purpose of ascertaining and settling private land claims in the State of California, by the act of Congress approved on the 3d of March, 1851, entitled An act to ascertain and settle the private land claims in the State of California, did, in February, eighteen hundred fifty-four, by their decision decide against the claim presented by the undersigned to the said commissioners, which claim is for land lying in the said southern district, and is numbered (564) five hundred sixty-four on the docket of claims before said board; and the said claimant, being desirous that the said district court should review the said decision, now hereby files this notice in the said clerk's office of his intention to prosecute an appeal, as provided by an act of Congress approved on the 31st of Aug., 1852.

JOHN C. GORE.

To the CLERK OF THE U. S. DISTRICT COURT *of the Southern District of California.*

9th September, 1854.

Filed September 9th, 1854.

A. S. TAYLOR, *Dep'ty Cl'k.*

Petition for Review.

To the honorable the Judge of the United States District Court of California for the southern district, to be held at Monterey, in A. D. 1855:

The petition of John C. Gore, of Monterey county, in the State of California, respectfully showeth, that whereas the claim of your petitioner to a tract of land in Monterey county, known as the Rancho Pescadero, containing a square league, was not confirmed by the land commissioners for want of sufficient proof, which proof your petitioner alleges he has in possession, or can produce; he therefore prays that you will review the decision of said commissioners, and decide on the validity of such claim.

Deraignment of title in case No. 564, Pescadero, as presented to land commissioners, viz:

Deed of concession from Gov. Gutierrez to Fabian Barreto, March 3d, 1836.

Approval of departmental assembly, and decree thereon by Gov. Alvarado, 30th May, 1840.

Petition for and judicial possession acts, 21st December, 1840, and copy of espediente.

Certified copy of transfer from Maria del Carmen Garcia, wife of Fabian Barreto, to Juan Romio, 20th May, 1846.

Conveyance from Maria Romio, executrix, to John C. Gore, 21st Jan'y, 1853.

Additional testimony and proof, viz: Proof of the death of Fabian Barreto, and that Maria del Carmen was his wife, without heirs.

Proof of the death of Juan Romio, and proceedings of probate court to the time of sale to J. C. Gore.

JOHN C. GORE.

Monterey, March 16th, 1855.

Filed March 22, 1855.

C. E. CARR, *Cl'k.*

Answer.

In the District Court of the United States for the southern district of California.

Los Angeles, Los Angeles County, *State of California.*

Hon. Isaac S. K. Ogier, Judge.

John C. Gore, appellant,
vs.
The United States, app'ees. } No. 157, (No. 564 of transcript.)

Answer of the United States to the petition of the appellant praying the court to review the decision of the United States land commissioners.

The answer of Pacificus Ord, attorney of the United States for the southern district of California, in behalf of the United States, to the

petition of John C. Gore, (filed March 22d, 1855,) alleging that the claim of the said petitioner to a tract of land in Monterey county, known as the Rancho Pescadero, containing a square league, was not confirmed by the land commissioners for want of sufficient proof, which proof the petitioner alleges he has in possession, or can produce, and praying that this court will review the decision of said commissioners, and decide on the validity of said claim.

And the said attorney of the United States, answering said petition in behalf of the United States, and hereby expressly objecting and excepting to the uncertainty and insufficiency of the said petition and the matter therein alleged and set forth, as not showing any good and valid claim, either legal or equitable, to the said land, denies generally all and singular each and every allegation in the said petition contained; and he denies specifically that there ever was any deed of conveyance from Gov. Gutierrez to Fabian Barreto, dated March 3d, 1846; and that said concession was approved by the departmental assembly, and decree thereon by Gov. Alvarado, dated May 3d, 1840; and that there ever was any petition for and acts of judicial possession, dated 21st December, 1840; and that Maria del Carmen Garcia, wife of Fabian Barreto, on the 20th day of May, 1846, or at any other time, conveyed or transferred said land to Juan Romio, or that she had any power or authority to convey or transfer the said land; and that Maria Romio, executrix, conveyed said land to the said claimant on the 21st day of January, 1853, or at any other time, or that she was ever executrix of the estate of Juan Romio, as set forth in said petition.

And the said attorney of the United States, in pursuance of the provisions of the acts of Congress in such case made and provided, herein fully and distinctly set forth the grounds on which said claim is invalid, to wit:

1st. That the said John C. Gore shows no valid title to the said land claimed by him as aforesaid, and it is denied that he has any.

2d. That the said alleged grant or concession of Gov. Gutierrez, dated March 3d, 1836, was made in violation of the 4th article of the colonization law of Mexico of the 18th of August, A. D. 1824, in this, that the land granted, as is alleged by claimant, was and is within ten leagues of the seacoast, and there is no evidence by claimant that the supreme general executive power of Mexico previously approved of the colonization of the lands of Upper California within ten leagues of the seacoast, and it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

3d. That at the date of the said alleged grant, the said land claimed as aforesaid was occupied by and belonged to the missions of California, *and particularly to the missions of California*, and particularly the mission of San Carlos.

4th. That the said alleged grant has not the conditions required by, and is not made in conformity with, the said law of Mexico, of the 18th of August, 1824, and the regulations for the colonization of the Territories of Mexico, of the date of the 21st of November, 1828.

5th. That there is no evidence that the said land claimed as aforesaid was vacant, unoccupied, and subject to colonization or grant as public lands, at the date of said alleged grant; and it is denied that it was vacant and unoccupied public land, subject to grant or colonization at the date of the said alleged grant.

6th. That there is no evidence that the said *said* Gutierrez was governor of Upper California, at the date of the said alleged grant, and that he then had lawful authority as such to execute and deliver to the said Fabian Barreto the said alleged grant of said land; and it is denied that the said Gutierrez was governor of Upper California, at the date of the said alleged grant, and that he then had lawful authority as such to make, execute, and deliver to the said Fabian Barreto, the said alleged grant of land.

7th. That at the date of the said alleged grant, the said land, claimed as aforesaid, belonged to and was within the limits and in possession of the public or municipality of the port of Monterey.

8th. That it is not stated in the said alleged grant that it was made in exact conformity with the provisions of the laws, to wit, of the law of Mexico, of the 18th of August, 1834, and the regulations for the colonization of the Territories of the Republic of Mexico, as required by the 8th article of the said regulations; and the said alleged grant is therefore invalid.

9th. That there is no time designated in the said alleged grant by said Gutierrez, within which the alleged grantee should be bound to cultivate or occupy the land; and there is no condition expressed in said alleged grant, that upon a failure to cultivate or occupy the said land within the designated time, that the grant should remain void, as required by the 11th article of the said regulation of 1828.

10th. That said alleged grant of said Gutierrez to said Fabian Barreto is not upon the class of stamped paper required by law; that there is no description of the said land contained in the said alleged grant; that the map of the said land shown by claimant is vague, indefinite, and uncertain.

11th. That the said alleged grant to the said Fabian Barreto, of the land called "El Pescadero," contains no description of the locality, extent, and boundaries of the land pretended to have been granted as aforesaid, by which it can be identified and surveyed, and is therefore vague and indefinite, and void for uncertainty.

12th. That the alleged act of judicial possession of 21st December, 1840, and the measurement and survey of said land by David Spence, pretending to be constitutional alcalde of Monterey, was not made according to ordinance or law; that said David Spence had no authority to perform said alleged acts of possession and measurement of said land; and that said alleged measurement or survey of said land is vague, indefinite, and uncertain, and is therefore void.

13th. That there is no evidence that the said Fabian Barreto ever built a house upon said land, within one year from the date of the said alleged grant and occupied it, or that he ever built and occupied a house

upon said land, or that there ever was a house built upon said land previous to the seventh day of July, 1846; and it is denied that there ever was a house built upon said land until after the said seventh day of July, 1846.

14th. That the alleged sale of and transfer of said land, on the 20th day of May, 1846, by Maria del Carmen Garcia to Juan Romio, pretending to be the widow of said Barreto, is without legal form and effect, and is void; because it is not shown or proved that the said Maria del Carmen Garcia was the wife or widow of the said Barreto, or that she at that time, or at any time, had any estate or interest in the said tract of land, or any power or authority to convey the same, or that the said Barreto is dead; and it is denied that she ever was the wife or widow of the said Barreto, or that she ever had any estate or interest in or any power or authority to convey the same, or that the said Barreto was dead at the time.

15th. That the alleged sale and transfer, on the 21st day of January, 1853, of the said tract of land to said claimant, by Maria Romio, pretending to be administratrix of the estate of John F. Romio, deceased, is without legal form and effect, and is void, for the reason that there is no evidence that the said Maria Romio was, at the time, or at any time, administratrix of the estate of John F. Romio, or that she ever had any estate or interest in the said tract of land, or any power or authority to make such sale as administratrix, &c., or in any other capacity whatever, or that the said Romio is dead; and it is denied that she ever was administratrix of the estate of John F. Romio, or that she ever had any estate or interest in the said tract of land, or any power or authority to make such sale, or that the said Romio is dead.

16th. That there is no evidence that Joaquin S. Escamilla, before whom the said act of sale, of date May 20th, 1846, purports to have been made, was, at the time of the date thereof, second constitutional alcalde of the capitol of Monterey; and it is denied that he was, at said time, second alcalde of the capitol of Monterey.

17th. That said act of sale, of date May 22d, 1846, and said deed of January 21st, 1853, are, and each of them is without legal form and effect, and therefore void, for the reason that the lands therein, pretended to be sold and described, are not described by metes and bounds, so that the same can be identified.

Wherefore the said attorney of the United States, respondent in behalf of the United States, prays this honorable court to decide and decree the said claim of the said John C. Gore to be invalid, and dismiss his said petition with costs, and for general relief.

P. ORD,
Att'y of the United States for the south'n dis't of Cal'a,
By MYRON NORTON,
Asst'g dis't Att'y.

Filed April 9th, 1855.

C. E. CARR, *Clk.*

Motion and order to take testimony.

JOHN C. GORE, appellant,
vs.
THE UNITED STATES, appellee. } Claim for "El Pescadero."

In the United States District Court for the southern district of California.

The said appellant appearing by his attorney, D. S. Gregory, and the said appellee, by P. Ord, esq., dis't attorney for the southern district of California; on motion of attorney for the appellant, it is ordered by the court, that either party may take such further testimony in such cause as they may think proper.

Filed June 13, 1855.

C. E. CARR, *C'lk.*

Deposition of David Spence.

JOHN C. GORE, app'lt,
vs.
THE UNITED STATES, app'ee. } No. 157.

District Court of the United States, southern district of California.

Deposition of David S. Spence, a witness on the part of appellant, taken by consent of parties, before Charles E. Carr, U. S. comm'r appointed to take testimony in this case, at Monterey, June 14th, 1855. Present D. S. Gregory, counsel for appellant; Myron Norton, assistant U. S. attorney.

Quest. 1st. What is your name, age, place of residence, and occupation?

Ans. 1st. My name is David S. Spence; my age fifty-six years; I reside in the county of Monterey in this State; my occupation that of a farmer.

Quest. 2d. Do you know whether or not juridical possession of the rancho called "El Pescadero" was ever given? If so, state when, by whom, and to whom.

Ans. 2d. Yes; I know that juridical possession of the rancho of "El Pescadero" was given, to the best of my recollection, in the year one thousand eight hundred and forty, by myself, being then justice of the peace for the district of Monterey; it was given to Fabiano Barreto.

Quest. 3d. Is Barreto now living or dead?

Ans. 3d. Barreto is dead; I think he died in the year one thousand eight hundred and forty-one, or forty-two, but I am not certain as to the time.

Quest. 4th. Did Fabiano Barreto leave any heirs; if so, state who they are?

Ans. 4th. I know of no heirs left by Fabiano Barreto, except his wife, Maria del Carmen Garcia; and that he left no children by his said wife, nor do I know that he was ever married to any other wife.

Quest. 5th. State whether or not Maria del Carmen Garcia was the wife of Fabiano Barreto at the date of the grant under which you gave said Barreto juridical possession of "El Pescadero?"

Ans. 5th. Yes, she was, and was there present at the time.

Quest. 6th. Look at the copy of the grant contained in the certified transcript of this case, and state whether you believe it to be a copy of the grant under which you gave the juridical possession?

Ans. 6th. It is so long since, that I cannot say whether it is an exact copy or not. The quantity of land granted, however, is the same that I gave the possession of, and, to the best of my knowledge and belief, it is a correct copy of said original grant.

Quest. 7th. State whether or not there were any of the colindantes of said rancho present when you gave the juridical possession? If yea, state who they were.

Ans. 7th. José Armento was present, and was the only colindante.

Quest. 8th. Do you know the boundaries of the rancho of El Pescadero; if so, state what they are?

Ans. 8th. The boundaries towards the sea are Armento's lands; towards Carmelo a deep gulch; on the side opposite from the sea in the woods, there was a tree or trees marked, which, I think, could be found without any difficulty.

Quest. 9th. State what you know about the occupancy of said rancho of El Pescadero?

Ans. 9th. When I went to give the juridical possession of said rancho, I found a small house upon it and some stock; and, to the best of my knowledge, it was occupied by Barreto's widow until she sold it; said rancho of El Pescadero, in the county of Monterey, State of California.

Cross-examined by the Assistant United States Attorney.

Quest. 1st. Does the land mentioned in this grant lie on the sea-coast?

Ans'r 1st. Yes; it is on the sea-coast.

Re-examined by Counsel for Claimant.

Quest. 10th. State whether or not you know Juan Romio? If yea, state whether he is still living.

Ans. 10th. I knew him perfectly well, and understand that he died in the placers of California, a short time after they were discovered.

Quest. 11th. Do you know whether or not the estate of Juan Romio was ever administered upon in the courts of Monterey? If yea, state at what time.

(This question was objected to by the assistant United States attorney.)

Ans'r 11th. I have understood that it was, but do not recollect the time.

Cross-examined by U. S. Assist. Attorney.

Quest'n. To whom was Juan Romio married?

Ans'r. He was married when he came from Mexico. His wife appears to be German.

Quest'n. Do you know how many children they had?

Ans'r. I think they had three or four. I know two sons and a daughter.

D. S. SPENCE.

Sworn to and subscribed at the city of Monterey, this 14th day of June, A. D. 1855, before me.

C. E. CARR,
U. S. Comm'r.

Filed June 14th, 1855. C. E. CARR, *Cl'k.*

Deposition of José Abrego.

JOHN C. GORE, app'l't,
vs.
THE UNITED STATES, app'ee. } No. 157.

Dist. Court of the U. S. for the south'n dist. of Cal'a.

Deposition of José Abrego, a witness on the part of app'l't, taken by consent of parties, before Charles E. Carr, U. S. comm'r, appointed to take testimony in this case, at Monterey, June 15th, 1855. Present, D. S. Gregory, counsel for app'l't; Myron Norton, ass't U. S. attorney.

José Abrego, being duly sworn, deposes and says:

Quest. What is your name, age, place of residence and occupation?

Ans. My name is José Abrego; am 43 years of age; reside in Monterey county, and am a ranchero.

Quest. State whether or not you know the rancho Pescadero, in Monterey county? If yea, how long have you known it?

Answ'r. I do know said rancho, and have known it since the year 1836. It was then occupied by Fabiano Barreto, and his wife, Maria del Carmen Garcia. They lived on it themselves, and had a house upon it, corrals, sowing, or a garden, and cattle and horses. They occupied it until the death of Fabiano Barreto, which was in the year A. D. 1841 or 1842, or thereabouts. After his death, his widow continued to occupy the rancho, until she sold it to Juan Romio, but I cannot recollect in what year. Romio lived on the ranch, after he purchased, until he died, but don't remember in what year he died. After his death, his widow, Maria Romio, sold it to Mr. Gore, the appellant. It was occupied all the time from the year A. D. 1836 to the present time by some one living on it, and having cattle, horses, and a portion of the said rancho in cultivation. Mr. Gore now lives upon it.

Question. Who acted as administratrix on said Juan Romio's estate?

Ans'r. Maria Romio, the widow of the said Juan Romio, deceased, acted as administratrix on said estate.

Cross-examined by Myron Norton, Assistant United States District Attorney.

1st Quest. How many children had Juan Romio and his wife Maria at the time of his death, and how many of them are now living, and what are their names?

Ans'r. He had three or four, I don't remember which, and they are all now living. One is named Carlos, but I do not remember the names of the others.

JOSE ABREGO.

Sworn and subscribed at Monterey, June 15th, 1855, before me.
C. E. CARR,
U. S. Com's'r.

Filed June 15th, 1855.

C. E. CARR, *Cl'k.*

Notice of Hearing.

In the District Court of the United States for the southern district of California.

JOHN C. GORE
vs.
THE UNITED STATES. } No. 157.—(Transcript No. 564.)

To John C. Gore or his Attorneys:

Take notice that the above entitled cause will be brought to a hearing by the United States on Friday, the 19th day of October, A. D. 1855, or as soon thereafter as the same can be heard by the court.
Los Angeles, Octo. 11th, 1855.

P. ORD, *U. S. Att'y*,
By MYRON NORTON,
Assist. U. S. Dist. Att'y.

Filed Oct. 11th, 1855.

C. E. CARR, *Cl'k.*

STATE OF CALIFORNIA,
County of Monterey, ss:

Estate of John F. Romio.

Charles Walter, W. E. P. Hartnell, and David Spence, appointed appraisers of said estate by the probate court of said county, being each severally sworn for himself, doth say, that he will truly, honestly and impartially appraise the property which shall be exhibited to him of said estate, according to the best of his knowledge and ability.

CHAS. WALTER,
W. E. P. HARTNELL,
D. SPENCE.

Sworn and subscribed before me, this 22d day of November, 1852.
JOSIAH MERRITT,
County Judge of Monterey county, and ex-officio Probate Judge.

Inventory of Appraisers.

STATE OF CALIFORNIA,
County of Monterey.

Estate of Juan F. Romio.

Inventory of property belonging to the above estate, as rendered unto the undersigned appraisers by the administratrix, the widow of the deceased.

Ranch of the Pescadero, 4,400 acres, a little more or less	$2,500 00
One lot in Monterey, 125 yards sq.	300 00
Improvements on said lot	300 00
Tract of land in the Cañada Honda, about 160 acres	160 00
Improvements on said land	100 00
One lot in the vicinity of San José, supposed to have been sold for taxes, 100 yds. sq.	80 00
Two lots in Suterville, supposed to have been sold for taxes, each 25 yds. by 75 yds.	50 00
Household furniture and kitchen utensils, &c.	100 00
Debts due the estate at the time of deceased death, $422, of which $143 has been paid, and the remainder is of very doubtful recovery	143 00
Total amount of property	$3,733 00
Deduct from the above the amount of $376 paid for taxes out of money being the private property of Ernestes Romio, son of the deceased, and $158, amount of an obligation given by deceased to J. Frankfort	534 00
Net amount of property at present on hand	$3,199 00

No money has come into the hands of the administratrix except the $143 mentioned in the inventory.

CHS. WALTERS,
W. E. P. HARTNELL,
D. S. SPENCE,
Appraisers.

Monterey, 22d November, 1852.

I, Maria Romio, administratix of the estate of John F. Romio, deceased, do solemnly swear that the foregoing inventory contains a true statement of all the estate of the deceased which has come to her knowledge or possession, and particularly of all moneys belonging to the deceased, and of all just claims of the deceased against the administratrix.

MARIA ROMIO.

Subscribed and sworn to before me, this 22d day of November, 1852.
JOSIAH MERRITT,
County Judge of Monterey county, and ex-officio Probate Judge.

I, James H. Gleason, clerk of the probate court of the county of Monterey, State of California, do hereby certify the foregoing to be a true and correct copy of an inventory and oath of appraisers and administratrix, filed in my office the 23d November, 1852.

Given under my hand and seal of said court, this 16th day of February, 1855.

JAS. H. GLEASON,
Probate clerk, Monterey county.

Filed January 17, 1856.

C. E. CARR, *Cl'k.*

Stipulation.

JOHN C. GORE, appellant, vs. THE UNITED STATES, appellee. } No. 157.—For the place called "El Pescadero."

U. S. District Court for the southern district of California.

We mutually stipulate and agree that the certified copy (see pages 35 and 36 of the transcript in this case) of a conveyance from Maria del Carmen Garcia, widow of Fabian Barreto, to Juan Romio, is a true copy of an original deed or record in Monterey county, and that the signatures to said original are genuine. The said copy to have the same force and effect as if the original were filed in this case and the genuineness of signatures acknowledged.

D. S. GREGORY,
Attor'y for Appel't.
MYRON NORTON,
Ass't Dis't Att'y.

Los Angeles, 15th Jan'y, 1856.

Filed Jan'y 17, 1856.

C. E. CARR, *Cl'k.*

Record of Proceedings in the Probate Court of Monterey county.

Probate Court, Monterey county, State of California, October 10, A. D. 1850.

In the matter of the Estate of John F. Romio, deceased.

On reading and filing the petition of Ernest Romio and Maria Romio, praying for letters of administration upon the estate of John F. Romio, deceased; and upon reading and filing proof of the death of said John F. Romio, it is ordered, that the clerk of this court give the notice required by law of said application for the first Monday of November next.

On reading and filing the petition of Ernest and Maria Romio, praying for special letters of administration upon the estate of John F. Romio, deceased, it is ordered, that the said Ernest F. Romio be appointed special administrator, and Maria Romio special administratrix, of such estate, upon each of them filing with the clerk of this court a

sufficient bond in the penal sum of twenty-four thousand dollars, to be approved by the probate judge.

Bonds of administrator and administratrix filed and approved October 15, 1850.

Inventory filed 23d Nov., 1852.

Consent to sale filed 23d Nov., 1852.

We, the undersigned, being all the persons interested in the estate of John F. Romio, deceased, do hereby consent to the sale of the rancho Pescadero, part of the estate of said deceased, we hereby consenting to and ratifying any order of sale which may be made by said court in this estate.

MARIA ROMIO,
Widow of deceased.
ERNEST ROMIO,
Mayor son of deceased.
CHARLES ROMIO,
SOLEDAD ROMIO,
PABLO ROMIO,
Minor children of said deceased.
By MARIA ROMIO,
Mother and natural guardian of said minors.

Monterey, November 23, 1852.

Petition for sale filed 23d Nov., 1852.

To the honorable Probate Court of Monterey county:

In the Estate of John F. Romio.

Your petitioner, administratrix of said estate, represents that the personal property of said estate coming to her possession has been $100 of household furniture, which is necessary for the family; and $143 in money paid on a debt due deceased; which last sum has been expended in maintaining the family of the deceased; and the undisposed of personal property is simply the furniture, &c., necessary for the family.

The liabilities of said estate are $158, on an obligation given by deceased to J. Frankfort, and $376 paid by Ernest Romio for taxes on said estate since death of deceased. A description of all the real estate possessed by said deceased at the time of his death is contained in the inventory filed in the probate court in this estate, and the present condition and value of the same is believed to be truly set forth in said inventory, and the said inventory is referred to and made a part of this petition. The heirs of the deceased are Maria Romio, widow of deceased, and Ernest and Charles and Pablo and Soledad Romio, children of said deceased; said widow and said Ernest Romio being now of full age, and said Charles, Pablo, and Soledad being respectively of the ages of 17 y'rs, 9 y'rs, and 15 y'rs.

And further your petitioner represents, that said estate is now entirely unproductive and profitless, and it is necessary to sell the same, or some part thereof, to pay the aforesaid liabilites and the necessary charges of administration. And further, the proceeds of said sale it is believed can be invested so as to benefit the heirs much more than the estate does in its present form.

Wherefore your petitioner prays that your hon. court may order to be sold the Rancho Pescadero, and so much of the property of said estate as the court may deem necessary. MARIA ROMIO.

Maria Romio, petitioner as above, being sworn, says, that the facts set forth in the foregoing petition are true to the best of her knowledge and belief. MARIA ROMIO.

Sworn and subscribed before me, this 23d November, 1852.
D. R. ASHLEY,
Notary Public, Monterey Co.

Probate Court, Monterey county, State of California, 22d November, 1852.

In the matter of the Estate of John F. Romio, deceased.

Order of Sale.

On reading and filing the petition of Maria Romio, administratrix of this estate, and natural guardian of the infant heirs, and consent of all parties interested, it is ordered that Maria Romio, administratrix of said estate, do proceed and is hereby authorized to sell for cash all the following described property belonging to the estate of said deceased, to wit: all that tract or parcel of land situated in the county of Monterey, and known as the Rancho Pescadero, of about one league of land; and notice of the sale shall be duly given in the Santa Clara Register, published in San José.

It is also ordered that John M. O'Neill be and is hereby appointed guardian ad litem of the minor heirs of this estate, to attend to the interest of said minor heirs in regard to the sale of the property belonging to this estate.

Copy of notice of sale and certificate filed 17 Jan'y, 1853.

The rancho of Pescadero, in the county of Monterey, and belonging to the estate of John F. Romio, deceased, will be sold at public auction, at the court-house door, in the city of Monterey, at 10 o'clock a. m., on the 25th Dec., 1852, by order of the probate court of said county.

Dec. 4th, 1852.

MARIA ROMIO, *Administratrix*,
By D. R. ASHLEY, *Att'y*.

The above mentioned sale is postponed until Jan'y 15th, 1853, at 10 a. m., same place.

Dec'r 25th, 1852.

MARIA ROMIO, *Administratrix*,
By D. R. ASHLEY, *Att'y*.

PROBATE COURT OF COUNTY OF MONTEREY,
State of California.

Estate of John F. Romio.

D. R. Ashley being sworn says, three notices of the sale of property of this estate, ordered by said court on the 22d day of November, 1852, were posted up in three of the most public places in the co. of Monterey, where the property is situated, for three weeks previous to the sale under said order.

D. R. ASHLEY.

Sworn to and subscribed before me, this 17th day of Jan'y, 1853.
W. S. JOHNSON,
Co. Clerk Monterey Co.

Certificate of publication filed 17th Jan'y, 1853.

Administratrix Sale.

Will be sold at public auction, at the court-house door, in the city of Monterey, on the 25th day of December, 1852, at 10 o'clock a. m., for cash, the Rancho Pescadero, containing about one league of land, situated in Monterey county. Said rancho belongs to the estate of John F. Romio, deceased, and is sold by order of the probate court of said county.

MARIA ROMIO, *Administratrix.*

Monterey, November 25th, 1852.

STATE OF CALIFORNIA,
Santa Clara County.

Augustin Jones, jr., being sworn, doth upon oath declare, that the foregoing notice by Maria Romio, administratrix of the estate of John F. Romio, deceased, was published for the period of four successive weeks (commencing on the 2d day of December, 1852, inclusive) in the Santa Clara Register, a newspaper published weekly at the city of San José, in said county, said publication being made while this affiant was a printer in the office of said newspaper.

AUGUSTUS JONES, JR.

Sworn to and subscribed before me, this 31st day of December, 1852. Witness my hand and notarial seal.

C. T. RYLAND, *Notary Public.* [SEAL.]

Report of sale filed 17th Jan'y, 1853.

To the Hon. Josiah Merritt, Probate Judge co. of Monterey, State of California:

Marie Romio, administratrix of the estate of John F. Romio, deceased, would respectfully report, that pursuant to the order of sale made in the matter of this estate on the 22d day of November, 1852, by your hon. court, the said administratrix duly advertised for sale the Rancho Pescadero, and at public auction, at the court-house door, in

the city of Monterey, on the 15th day of January, 1853, at 11 o'clock a. m., sold to John C. Gore, who was the highest bidder, the said rancho for the sum of ($4,400) four thousand and four hundred dollars; which sum being a fair price, it is hoped the sale may be confirmed.

MARIA ROMIO,
By D. R. ASHLEY, *Her Att'y.*

City of Monterey, Jan'y 17th, 1853.

Confirmation of sale, filed 17th January, 1853.

Whereas on the 22d day of November, 1852, an order was made by this court for the sale of the rancho Pescadero, belonging to the estate of said Romio, and it appearing by the report of the administratrix of this estate, that said rancho was sold at public auction, on the 15th day of January, 1853, at 11 o'clock a. m., at the door of the court-house, in the county of Monterey, where said property is situated, to John C. Gore, who was the highest bidder for the sum of ($4,400) four thousand four hundred dollars; and it now being further proved to the satisfaction of this court, that due notice of said sale was both published and posted up for the required time according to law; and it appearing to this court that said sale was legally made, and that said sum bid is a fair price for said rancho: Now, it is ordered that said sale do stand confirmed by this court, and said administratrix is hereby directed to make a conveyance of said rancho to said purchaser, on receiving said amount bid and the costs of the conveyance.

JOSIAH MERRITT,
County Judge of Monterey county and ex-officio Probate Judge.

Dated January 17th, 1853.

STATE OF CALIFORNIA, *County of Monterey.*

I, James H. Gleason, clerk of the probate court of said county, do hereby certify the foregoing pages of writing, numbering from one to nine, contain a true and correct copy of proceedings had in said court, in the matter of the estate of John F. Romio, deceased, as will appear by the records thereof, and papers on file in my office.

Given under my hand and the seal of said court, this 2d day of February, 1855.

JAS. H. GLEASON,
County Clerk and ex-officio Probate Clerk, Monterey Co.

Filed January 17, 1856. C. E. CARR, *Cl'k.*

Decree.

JOHN C. GORE, appellant,
vs.
THE UNITED STATES, app'ee. } No. 157.—"El Pescadero."

United States District Court for the southern district of California, December term, 1855.

This cause coming on to be heard at a stated term of said court, on an appeal from the final decision of the commissioners to ascertain and

settle the private land claims in California, under an act of Congress approved March 3d, 1851, on the transcript of the proceedings and decision, and of the papers and evidence upon which said decision was made, and also upon further testimony taken in said cause; and it appearing that the said transcript has been duly filed, and notice of appeal given according to law, and counsel for the respective parties having been heard:

It is therefore ordered, adjudged, and decreed by the court, that the said decision of the said commissioners be, and the same is hereby reversed and annulled; and it is further ordered, adjudged, and decreed by the court, that the claim of the said John C. Gore, for the tract of land called "El Pescadero," it being the same described in the grant and map, and testimonial of juridical possession, copies of which are on file in this case, is a good and valid claim, and that the same be and is hereby confirmed to the extent of one square league, and no more—the boundaries of which said tract of land, hereby confirmed, are more particularly shown and described in the said grant and map, and testimonial of judicial possession: provided the said quantity of one square league is contained within the said boundaries; and if there is less than said quantity within the said boundaries, then the claim of the said appellant to said less quantity is hereby confirmed and decreed to be valid.

ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed January 21st, 1856.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

In the District Court of the United States for the southern district of California.—Los Angeles.—December Term, 1855.

JOHN C. GORE, appellee,
vs.
THE UNITED STATES, appellant.
} No. 157.—(No. 564 of Transcript.)

On appeal from the United States land commission.

On motion of Myron Norton, ass't of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this court against the United States, in the above entitled cause, rendered on or about the 18th day of January, A. D. 1856.

MYRON NORTON,
Ass't of Dist. Att'y P. Ord.

Filed, M'ch 7th, 1856.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the foregoing twenty-eight pages, numbered from 1 to 28, both inclusive, to contain a full, true and correct transcript of the record of the proceedings, and decision of said court, of the documentary evidence and testimony of witnesses upon which said decision was founded, on file in this office in case No. 157 on the docket of said court, wherein John C. Gore is the appellant, and the United States appellees, for the place called "El Pescadero."

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, this 8th day of May, A. D. 1856.

[SEAL.]

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'ty*.